IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 21526 of 2005(K)

AGAINST THE ORDER DATED / / IN EP 41 2003 IN OS.909/1998 of PRL.M.C., KOCHI

PETITIONER:

MARY VARGHESE, CHULLICKAL HOUSE,
VIDAKUZHA, THAIKKATTUKARA, ALUVA.

BY ADV. SRI.P.JACOB VARGHESE
SRI.VIVEK VARGHESE P.J.

RESPONDENTS:

UNNI @ SAJEEVAN, PANAMBADI HOUSE,
PERUMAL PADY, ELAMKUNNAPPUZHA, KOCHI TALUK.

BY ADV. SRI.T.H.ABDUL AZEEZ
SRI.K.P.MAJEED

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO.21526/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE COMPROMISE DECREE IN OS. NO.909/98 IN THE FILE OF PRINCIPAL MUNSIFF'S COURT, KOCHI.

EXT.P2:- COPY OF THE EP. NO.41/03 IN THE FILE OF PRINCIPAL MUNSIFF'S COURT, KOCHI.

EXT.P3:- COPY OF THE ORDER DT. 11.8.04 IN EP. NO.41/03 IN OS. NO.909/98.

EXT.P4:- COPY OF THE ORDER DT. 14.9.03 IN EP. NO.41/03 IN OS. NO.909/98.

/TRUE COPY/

P.A. TO JUDGE

KURIAN JOSEPH, J.

W.P. (C). NO. 21526 OF 2005

Dated this the 8th day of August, 2007.

J U D G M E N T

Petitioner is the decree holder in E.P. No. 41/03 in O.S. No. 909/98 on the file of Principal Munsiff's Court, Kochi. The suit was compromised between the parties and as per the compromise, property was to be measured.

2. According to the petitioner, the property had already been measured by the Taluk Surveyor. It is seen that the application E.P. No. 41/2003 was dismissed on the only ground that no steps have been taken by the petitioner for measuring the property. If the measurement as contended by the petitioner is unnecessary, it is not necessary for the petitioner to take steps for measurement. Therefore, what is required is an enquiry regarding whether the measurement is necessary at all.

In the above circumstances, I quash Exhibits P3 and P4 with a direction to the Execution Court to consider the matter afresh on the steps already taken by the petitioner. There will be a further direction to the Execution Court to conduct an enquiry as to whether the property has been duly surveyed at the time of

trial. It is made clear that in case the property had already been duly measured pursuant to orders issued by the court during trial, it is not necessary for a fresh measurement at the execution stage.

This writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

smp